

SENATE AMENDMENTS

2nd Printing

By: Gonzales of Williamson, Laubenberg,
Hinojosa, Geren, Rose

H.B. No. 273

A BILL TO BE ENTITLED

AN ACT

relating to the content of local and state propositions on the
ballot.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 52.095, Election Code, is amended to
read as follows:

Sec. 52.095. PROPOSITIONS. (a) Except as otherwise
provided by law, the authority ordering an election in which more
than one measure is to be voted on shall determine the order in
which the propositions are to appear on the ballot and identify them
as follows:

(1) except as provided by Subdivision (2), for each
proposition on the ballot, the authority ordering the election
shall assign a letter of the alphabet to the measure that
corresponds to its order on the ballot; and

(2) for each proposition on the ballot to be voted on
statewide, the authority ordering the election shall assign a
number to the measure that corresponds to its order on the ballot.

(b) Each proposition on the ballot must identify the name of
the authority ordering the election on the measure.

(c) The secretary of state shall prescribe procedures
necessary to implement this section.

SECTION 2. Subchapter A, Chapter 274, Election Code, is
amended by adding Section 274.004 to read as follows:

1 Sec. 274.004. PROPOSITION BALLOT ORDER. A proposed
2 constitutional amendment must be placed on the ballot before all
3 other propositions.

4 SECTION 3. This Act takes effect September 1, 2017.

ADOPTED

MAY 22 2017

Atalay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Paul Bellercont*

Amend H.B. No. 273 (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Section 52.072, Election Code, is amended by adding Subsection (f) to read as follows:

(f) A ballot proposition proposing an amendment to a home-rule city charter or a voter-initiated initiative or referendum as requested by petition must substantially submit the question with such definiteness and certainty in identifying the proposition's chief features that the voters are not misled.

SECTION _____. Chapter 233, Election Code, is amended by adding Section 233.0115 to read as follows:

Sec. 233.0115. BALLOT LANGUAGE MANDAMUS ACTION. If a court orders a new election under Section 233.011, a person may seek from the court a writ of mandamus to compel the governing body of a city to comply with the requirement that a ballot proposition must substantially submit the question with such definiteness and certainty that the voters are not misled, as provided by Section 273.102.

SECTION _____. Section 253.094(b), Election Code, is amended to read as follows:

(b) A corporation or labor organization may not make a political contribution in connection with a recall election, including the circulation and submission of a petition to call an election. This subsection does not prohibit a religious organization from circulating or submitting a petition in connection with a recall election.

SECTION _____. Chapter 273, Election Code, is amended by adding Subchapter F to read as follows:

1 SUBCHAPTER F. BALLOT PROPOSITION LANGUAGE ENFORCEMENT PROVISIONS

2 Sec. 273.101. REVIEW BY SECRETARY OF STATE. (a) Not later
3 than the seventh day after the date on which a home-rule city
4 publishes in the election order or by other means ballot
5 proposition language proposing an amendment to the city charter or
6 a voter-initiated initiative or referendum as requested by
7 petition, a registered voter eligible to vote in the election may
8 submit the proposition for review by the secretary of state.

9 (b) The secretary of state shall review the proposition not
10 later than the seventh day after the date the secretary receives the
11 submission to determine whether the proposition substantially
12 submits the question with such definiteness and certainty that the
13 voters are not misled.

14 (c) If the secretary of state determines that the
15 proposition fails to substantially submit the question with such
16 definiteness and certainty that the voters are not misled, the city
17 shall draft a proposition to cure the defects and give notice of the
18 new proposition using the method of giving notice prescribed for
19 notice of an election under Section 4.003.

20 (d) A proposition drafted by a city under Subsection (c) to
21 cure the defects may be submitted to the secretary of state under
22 Subsection (a). If the secretary of state determines that the city
23 has on its third attempt drafted a proposition that fails to
24 substantially submit the question with such definiteness and
25 certainty that the voters are not misled, the secretary of state
26 shall draft the ballot proposition.

27 Sec. 273.102. MANDAMUS ACTIONS. (a) In an action in a
28 court of competent jurisdiction seeking a writ of mandamus to
29 compel the city's governing body to comply with the requirement
30 that a ballot proposition must substantially submit the question
31 with such definiteness and certainty that the voters are not

1 misled, the court shall make its determination without delay and
2 may order the city to use ballot proposition language drafted by the
3 court.

4 (b) The court may award a plaintiff or relator who
5 substantially prevails in a mandamus action described by Subsection
6 (a) the party's reasonable attorney's fees, expenses, and court
7 costs.

8 (c) Governmental immunity to suit is waived and abolished
9 only to the extent of the liability created by Subsection (b).

10 Sec. 273.103. MANDATORY SUBMISSION TO SECRETARY OF STATE.
11 Following a final nonappealable judgment containing a finding by a
12 court that a ballot proposition drafted by a city failed to
13 substantially submit the question with such definiteness and
14 certainty that the voters are not misled, the city shall submit to
15 the secretary of state for approval any proposition to be voted on
16 at an election held by the city before the fourth anniversary of the
17 court's finding.

18 Sec. 273.104. CITY REQUIRED TO PAY FOR LEGAL SERVICES.
19 Notwithstanding a home-rule city charter provision to the contrary,
20 a city may not accept legal services relating to a proceeding under
21 this subchapter without paying fair market value for those
22 services.

23 Sec. 273.105. RULES. The secretary of state may adopt rules
24 as necessary to implement this subchapter.

25 SECTION ____. Sections 277.001, 277.002, 277.0021,
26 277.0022, 277.0023, 277.0024, and 277.003, Election Code, are
27 designated as Subchapter A, Chapter 277, Election Code, and a
28 heading is added to Subchapter A to read as follows:

29 SUBCHAPTER A. PROVISIONS RELATING TO SIGNATURES, VALIDITY, AND
30 VERIFICATION OF PETITIONS

31 SECTION ____. Section 277.001, Election Code, is amended to

1 read as follows:

2 Sec. 277.001. APPLICABILITY OF SUBCHAPTER [~~CHAPTER~~]. This
3 subchapter [~~chapter~~] applies to a petition authorized or required
4 to be filed under a law outside this code in connection with an
5 election.

6 SECTION _____. Section 277.002, Election Code, is amended by
7 adding Subsection (f) to read as follows:

8 (f) The illegibility of a signature on a petition submitted
9 to a home-rule city is not a valid basis for invalidating the
10 signature if the information provided with the signature as
11 required by this section and other applicable law legibly provides
12 enough information to demonstrate that the signer:

13 (1) is eligible to have signed the petition; and

14 (2) signed the petition on or after the 180th day
15 before the date the petition was filed.

16 SECTION _____. Subchapter A, Chapter 277, Election Code, as
17 added by this Act, is amended by adding Sections 277.005 and 277.006
18 to read as follows:

19 Sec. 277.005. PETITION FORM; USE BY CITY AND OTHER PERSONS.

20 (a) The secretary of state shall prescribe the form and content
21 for a petition related to a city charter amendment or city
22 initiative or referendum election.

23 (b) A home-rule city that uses a form that is different from
24 the official form prescribed under Subsection (a) may not
25 invalidate a petition because the petition does not contain
26 information that the petition form failed to provide for or to
27 require to be provided.

28 (c) A person who circulates or submits a petition is not
29 required to use a petition form prescribed by the secretary of state
30 or a home-rule city. A petition that does not use a prescribed form
31 must contain the substantial elements required to be provided on

1 the prescribed form.

2 Sec. 277.006. RULES. The secretary of state may adopt rules
3 as necessary to implement this subchapter.

4 SECTION _____. Chapter 277, Election Code, is amended by
5 adding Subchapter B to read as follows:

6 SUBCHAPTER B. SUBMISSION OF CERTAIN CITY PETITIONS

7 Sec. 277.031. APPLICABILITY OF SUBCHAPTER. This subchapter
8 applies to a home-rule city that has a procedure requiring the
9 governing body of the city to hold an election on receipt of a
10 petition requesting the election that complies with the applicable
11 requirements.

12 Sec. 277.032. CONFLICTS WITH CITY CHARTER OR OTHER LAW. The
13 provisions of this subchapter apply notwithstanding any city
14 charter provision or other law.

15 Sec. 277.033. DETERMINATION OF VALIDITY. The city
16 secretary shall determine the validity of a petition submitted
17 under this subchapter, including by verifying the petition
18 signatures, not later than the 30th day after the date the city
19 receives the petition.

20 Sec. 277.034. COLLECTOR REQUIREMENTS PROHIBITED.

21 (a) Except as provided by Subsection (b), a city may not restrict
22 who may collect petition signatures.

23 (b) A city may require a person who collects petition
24 signatures to be a resident of the city. This subsection does not
25 authorize a city to require a person who collects petition
26 signatures to be a registered voter. A city requirement authorized
27 under this subsection does not apply to a petition relating to a
28 local option election under Chapter 501.

29 SECTION _____. Sections 9.004(a) and (c), Local Government
30 Code, are amended to read as follows:

31 (a) The governing body of a municipality on its own motion

1 may submit a proposed charter amendment to the municipality's
2 qualified voters for their approval at an election. The governing
3 body shall submit a proposed charter amendment to the voters for
4 their approval at an election if the submission is supported by a
5 petition signed by a number of registered ~~[qualified]~~ voters of the
6 municipality equal to at least five percent of the number of
7 registered ~~[qualified]~~ voters of the municipality on the date of
8 the most recent election held throughout the municipality or
9 20,000, whichever number is the smaller.

10 (c) Notice of the election shall be published in a newspaper
11 of general circulation published in the municipality. The notice
12 must:

13 (1) include a substantial copy of the proposed
14 amendment in which language sought to be deleted by the amendment is
15 bracketed and stricken through and language sought to be added by
16 the amendment is underlined;

17 (2) include an estimate of the anticipated fiscal
18 impact to the municipality if the proposed amendment is approved at
19 the election; and

20 (3) be published on the same day in each of two
21 successive weeks, with the first publication occurring before the
22 14th day before the date of the election.

23 SECTION _____. Subchapter E, Chapter 51, Local Government
24 Code, is amended by adding Section 51.080 to read as follows:

25 Sec. 51.080. PUBLICATION OF INITIATIVE OR REFERENDUM BALLOT
26 PROPOSALS. (a) This section applies to a municipality for which a
27 petition may be submitted requesting an election on an amendment to
28 the municipality's charter or a voter-initiated initiative or
29 referendum.

30 (b) In addition to any other notice or publication
31 requirements, a municipality shall publish the ballot proposition

1 language to be voted on at an election described by Subsection (a)
2 not later than the 109th day before the date of the election.

3 (c) The municipality must provide on its website in an
4 easily accessible location a clear and concise explanation of the
5 process used to submit a petition requesting an election on an
6 amendment to the municipality's charter or a voter-initiated
7 initiative or referendum.

8 SECTION _____. Section 277.004, Election Code, is repealed.

9 SECTION _____. Not later than January 1, 2018, the secretary
10 of state shall adopt a petition form as required by Section 277.005,
11 Election Code, as added by this Act.

12 SECTION _____. The changes in law made by this Act relating
13 to a petition requesting an election apply only to a petition
14 submitted on or after January 1, 2018.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 23, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB273 by Gonzales, Larry (Relating to the content of local and state propositions on the ballot.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code and the Local Government Code relating to the content of local and state propositions on the ballot.

The Secretary of State assumes any additional work associated with implementing the provisions of the bill could be absorbed using existing resources.

The bill would take effect September 1, 2017.

Local Government Impact

According to the City of Houston, the bill would have a significant fiscal impact on the City as well as all home-rule cities. The cost cannot be determined at this time because litigation and election costs vary. Additionally, costs may include an increase in cost for legal services, ballot republishing costs, and costs associated with postponed municipal financial action items due to citizen petitions.

Source Agencies: 307 Secretary of State

LBB Staff: UP, ASa, AG, LBO, WP, NV, BM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB273 by Gonzales, Larry (Relating to the content of local and state propositions on the ballot.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code relating to the content of local and state propositions on the ballot.

The Secretary of State assumes any additional work associated with implementing the provisions of the bill could be absorbed using existing resources.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 307 Secretary of State

LBB Staff: UP, AG, LBO, WP, ASa, NV, BM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 19, 2017

TO: Honorable Jodie Laubenberg, Chair, House Committee on Elections

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB273** by Gonzales, Larry (Relating to the content of local and state propositions on the ballot.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code relating to the content of local and state propositions on the ballot.

The Secretary of State assumes any additional work associated with implementing the provisions of the bill could be absorbed using existing resources.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 307 Secretary of State

LBB Staff: UP, LBO, WP, ASa, NV, BM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 7, 2017

TO: Honorable Jodie Laubenberg, Chair, House Committee on Elections

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB273 by Gonzales, Larry (Relating to the content of local and state propositions on the ballot.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code relating to the content of local and state propositions on the ballot.

The Secretary of State assumes any additional work associated with implementing the provisions of the bill could be absorbed using existing resources.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 307 Secretary of State

LBB Staff: UP, LBO, NV, ASa, BM